

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

THOMAS DORSEY,

Plaintiff,

v.

9:09-CV-976
(FJS/RFT)

DR. MICHAEL HOGAN, Ph.D., Commissioner of the
Office of Mental Health; and DR. TERRI
MAXY MILLIAN, Director, Sex Offender Treatment
Program, Central New York Psychiatric Center,

Defendants.

APPEARANCES

OF COUNSEL

THOMAS DORSEY
Rocky Mount, North Carolina 27803
Plaintiff *pro se*

OFFICE OF THE NEW YORK
STATE ATTORNEY GENERAL
The Capitol
Albany, New York 12224
Attorneys for Defendants

WILLIAM J. McCARTHY, JR., AAG

SCULLIN, Senior Judge

ORDER

Currently before the Court are Magistrate Judge Treen's March 4, 2011 Report-Recommendation and Order, *see* Dkt. No. 25, and Plaintiff's objections thereto, *see* Dkt. No. 26.

Plaintiff Thomas Dorsey commenced this civil rights action pursuant to 42 U.S.C. § 1983. In his amended complaint, Plaintiff alleged that, while he was involuntarily committed for treatment at the Central New York Psychiatric Center ("CNYPC"), Defendants denied him access to the courts and subjected him to certain unlawful policies and treatment under CNYPC's

civil confinement sex offender treatment program. *See generally* Dkt. No. 7. Plaintiff subsequently filed a motion for a preliminary injunction, in which he sought to enjoin Defendants from enforcing Article 10 of the New York Mental Hygiene Law against him, which provides for the involuntary civil commitment and treatment of certain individuals convicted of committing sex crimes. *See generally* Dkt. No. 18. Defendants filed a response in opposition thereto. *See* Dkt. No. 19.

On March 23, 2010, Defendants filed a motion to dismiss Plaintiff's amended complaint under Federal Rules of Civil Procedure 12(b)(6) and 12(b)(1), *see* Dkt. No. 12; and Plaintiff opposed that motion, *see* Dkt. No. 15. In a Report-Recommendation and Order dated March 4, 2011, Magistrate Judge Treen recommended that this Court grant Defendants' motion to dismiss, deny Plaintiff's motion for a preliminary injunction, and dismiss Plaintiff's complaint in its entirety. Magistrate Judge Treen found that, given Plaintiff's ongoing and pending Article 10 state-court civil confinement proceeding, the *Younger*¹ abstention doctrine applied, thereby warranting dismissal of Plaintiff's motion for a preliminary injunction and his claims for injunctive relief in his amended complaint, and that Plaintiff's other claims were likewise without merit. *See* Dkt. No. 25. Plaintiff objected to Magistrate Judge Treen's recommendation. *See* Dkt. No. 26.

Where a party makes specific objections to a magistrate judge's report and recommendation, the court conducts a *de novo* review of those recommendations. *See Trombley v. O'Neill*, No. 8:11-CV-0569, 2011 WL 5881781, *2 (N.D.N.Y. Nov. 23, 2011) (citing Fed. R. Civ. P. 72(b)(2); 28 U.S.C. § 636(b)(1)(C)). Where a party makes no objection or makes only

¹ *See Younger v. Harris*, 401 U.S. 37, 44 (1971).

conclusory or general objections, however, the court reviews the report and recommendation for "clear error" only. *See Salmini v. Astrue*, No. 3:06-CV-458, 2009 WL 1794741, *1 (N.D.N.Y. June 23, 2009) (quotation omitted). After conducting the appropriate review, a district court may decide to accept, reject, or modify those recommendations. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, *10 (N.D.N.Y. Sept. 29, 2009) (quoting 28 U.S.C. § 636(b)(1)(C)).

All of Plaintiff's objections to Magistrate Judge Treen's Report-Recommendation and Order are vague, conclusory, and general. Therefore, the Court has reviewed the record for "clear error;" and, having found none, the Court hereby

ORDERS that Magistrate Judge Treen's March 4, 2011 Report-Recommendation and Order is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

ORDERS that Defendants' motion to dismiss is **GRANTED** in its entirety; and the Court further

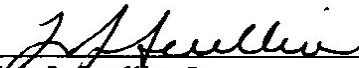
ORDERS that Plaintiff's motion for a preliminary injunction is **DENIED**; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Defendants and close this case; and the Court further

ORDERS that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: March 27, 2012
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge